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EXAMINER

LEE, GUNYOUNG T

ART UNIT PAPER NUMBER

2875

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,943

Applicant(s)

ROSS, JEREMY B.

Examiner

Gunyoung T. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-11,13-16,21-23 and 25-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-11,13-16,21-23 and 25-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 28, 2006 has been entered.

Response to Amendment

2. Applicant's amendment filed on March 28, 2006 has been entered:
- Claims 1, 4, 6, 10, 13 and 21 have been amended;
 - Claims 2, 12, 17-20 and 24 have been cancelled;
 - Claims 25-36 have been added;
 - Claims 1, 3-11, 13-16, 21-23 and 25-36 are still pending in this application, with claims 1, 6, 10, 13, 21, 25, 28 and 33 being independent.

Claim Objections

3. Claims 1, 6, 21, 25, 28 and 33 are objected to because of the following informalities: the uses of the phrases "capable of" or "may be" in line 7 of claim 1, in lines 4-5 of claim 6, in line 3 of claim 21, in lines 2-3 of claim 25, in lines 4-5 & 11-13 of claim 28, and in lines 4 & 10-11 of claim 33 render the claim indefinite because it is

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unclear whether the structural limitation following the phrases, namely the “capable of” and “may be”, is part of the claimed invention (see MPEP § 2173.05(g)). Appropriate correction is required.

4. Claims 28 and 33 are further objected to because of the following informalities: the phrases “said first member and said handle portion define a first plane” in lines 6-7 of claim 28 and in lines 5-6 of claim 33 render the claims indefinite, because there are numerous ways to define a plane based on the geometries of both a handle portion and a first member (e.g. based on the interface, the axis of the handle portion, etc.). Appropriate correction is required.

5. Claim 34 is objected to because of the following informality: the phrases “said battery receiving portion and said first member define a second plane” in lines 4-6 of claim 34 renders the claim indefinite, because there are numerous ways to define a plane based on the geometries of both a battery receiving portion and a first member (e.g. based a surface of the battery receiving portion or the first member). Appropriate correction is required.

6. Claim 35 is further objected to because of the following informality: the sentence “said light-emitting **portion** is substantially **transverse** to said battery receiving **portion**” renders the claim indefinite, because the word “transverse” requires at least two (one or

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two dimensional) geometrical information (such as, axis, surface, line, etc) from two pertinent parts. Appropriate correction is required.

Claim Rejections - 35 USC § 102

(Regarding claims 28-36, as best understood by Examiner)

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. The claims must be given their broadest reasonable interpretation. See MPEP § 2111.

9. It is noted that a statement with a term suggesting or making optional (e.g. “**adapted to**”) does not positively recites a structural limitation and is not given any patentable weight (see MPEP § 2106). Therefore, the phrases in line 12 of claim 1, in lines 2 and 8-9 of claim 6, in lines 6-7 of claim 13, in line 8 of claim 21, and in line 2 of claim 32 after the optional term “**adapted to**” are not given any patentable weight.

10. Claims 1, 3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Shannon (US 1,893,108).

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11. Shannon discloses a battery hand lamp (flashlight) (Fig. 1).

12. In regards to claim 1, Shannon discloses:

- A handle portion (Fig. 4, 1);
- A first member (Fig. 4, 40) having a first end (6) and a second end (42);
- Wherein the first end (Fig. 4, 6) is connected to the handle portion (1);
- A light box (Fig. 4, 45) connected to the second end (42);
- Wherein the lightbox (Fig. 4, 45) has a light source (64);
- Wherein the light source (Fig. 4, 64) is movable relative to the first member (40) to direct the directional light beam in various directions relative to the first member (40) (Fig. 1 and Fig. 2) (page 2, lines 26-28);
- A hand receiving opening defined between the handle portion (Fig. 1, 1), the first member (Fig. 4, 40) and the lightbox (45).

13. In regards to claims 3 and 5, Shannon further discloses:

- Wherein the lightbox (Fig. 4, 45) is swivelable relative to the first member (40) (Fig. 1 and Fig. 2) (claim 3);
- Wherein the lightbox (Fig. 4, 45) is rotatable relative to the first member (40), the lightbox (45) having an axis and being rotatable about the axis (Fig. 2) (page 2, line 126) (claim 5).

14. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Brandt (US 6,322,233).

15. Brandt discloses an emergency flashlight (Fig. 3).

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16. In regards to claim 1, Brandt discloses:

- A handle portion (Fig. 3, 50);
- A first member (Fig. 3, 18) having a first end and a second end;
- Wherein the first end (Fig. 3) is connected to the handle portion (50);
- A light box (Fig. 3, 26) connected to the second end;
- Wherein the lightbox (Fig. 3, 26) has a light source (28);
- Wherein the light source (Fig. 3, 28) is movable relative to the first member (18) to direct the directional light beam in various directions relative to the first member (18) (Fig. 1 and Fig. 3) (col. 2, lines 17-20);
- A hand receiving opening defined between the handle portion (Fig. 3, 50), the first member (18) and the lightbox (26).

17. In regards to claim 4, Brandt further discloses:

- Wherein the handle portion (Fig. 3, 50) is pivotable in a plane substantially transverse to the first member (18).

18. Claims 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Rhoades (US 3,628,005).

19. Rhoades discloses a lantern (Fig. 1).

20. In regards to claim 13, Rhoades discloses:

- A handle portion (Fig. 1, 40);
- A first member (Fig. 1, 32) connected to the handle portion (40, 36);
- A lightbox (Fig. 1, 10) connected to the first member (32);

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- Wherein the lightbox (Fig. 1, 10) comprises a battery receiving portion (col. 2, lines 53-56) and a light source (16);
- Wherein the handle portion (Fig. 1, 40, 36), the first member (32) and the light box (10) form a substantially U-shaped configuration defining a hand receiving opening;
- Wherein the lightbox (Fig. 1, 10) is movable relative to the first member (32) (Fig. 3) (col. 1, lines 64-65).

21. In regards to claim 15, Rhoades further discloses:

- Wherein the lightbox (Fig. 1, 10) is rotatable to indexed positions relative to the first member (32) (col. 1, lines 64-65).

22. Claims 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Rhoades (US 3,628,005).

23. Rhoades discloses a lantern (Fig. 1).

24. In regards to claim 25, Rhoades discloses:

- A lightbox (Fig. 1, 10) having a battery receiving portion (col. 2, lines 53-56) and a light source (16);
- A handle portion (Fig. 1, 40, 36) spatially separated from the lightbox (10);
- A first member (Fig. 1) having first and second (32) ends, wherein the first end connected to the handle portion (40, 36) and the second end (32) connected to the lightbox (10);

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- Wherein the light source (Fig. 1, 16) is directionally adjustable relative to the handle portion (40, 36) such that when the handle portion (36) is in a substantially vertical orientation, the light source (16) is adjustable to a directional light beam in one of a plurality of horizontal directions (col. 1, lines 64-67).

25. In regards to claims 25-26, Rhoades further discloses:

- Wherein the light source (Fig. 1, 16) is directionally adjustable through 360 degrees of rotation (col. 2, lines 7-8) (claims 25, 26).

26. Claims 28, 29 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Nygard (US 1,986,281).

27. Nygard discloses a hand lamp (Fig. 2).

28. In regards to claim 28, Nygard discloses:

- A light-emitting portion (Fig. 2, 18), a handle portion (10) and a first member (17);
- Wherein the light-emitting portion (Fig. 2, 18) connected to the handle portion (10) via the first member (17);
- Wherein the light-emitting portion (Fig. 2, 18) is movable relative to the handle portion (10) (page 1, col. 2, lines 35-37);
- A first position in which the first member (Fig. 2, 17) and the handle portion (10) defines a first plane and the light emitting portion (18) is substantially parallel with the first plane;
- A second position in which the light-emitting portion (Fig. 2, 18) is substantially transverse to the first plane (page 3, col. 1, lines 44-54).

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29. In regards to claims 29 and 31, Nygard further discloses:

- A switch (Fig. 2, 28) positioned on the first member (17) (claim 29);
- Wherein the light-emitting portion is rotatably connected to the first member (17) (claim 31).

30. Claims 28 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Yu (US 6,213,619).

31. Yu discloses a hand lamp (Fig. 2).

32. In regards to claim 28, Yu discloses:

- A light-emitting portion (Fig. 5, 16), a handle portion (12) and a first member (10);
- Wherein the light-emitting portion (Fig. 5, 16) connected to the handle portion (12) via the first member (10);
- Wherein the light-emitting portion (Fig. 5, 16) is movable (A, B) relative to the handle portion (12);
- A first position in which the first member (Fig. 5, 10) and the handle portion (12) defines a first plane and the light emitting portion (16) is substantially parallel with the first plane (when moving along A in Fig. 5);
- A second position in which the light-emitting portion (Fig. 5, 16) is substantially transverse to the first plane (when moving along B in Fig. 5).

33. In regards to claim 30, Yu further discloses:

- Wherein the handle (Fig. 5, 12) is pivotally connected to the first member (10).

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34. Claims 33 and 35-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Rhoades (US 3,628,005).

35. Rhoades discloses a lantern (Fig. 1).

36. In regards to claim 33, Rhoades discloses:

- A lightbox (Fig. 1, 10) interconnected to a handle portion (40);
- Wherein the lightbox (Fig. 1, 10) comprises a battery receiving portion (col. 2, lines 53-56) and a light-emitting portion (16);
- A first position in which the battery receiving portion (col. 2, lines 53-56) and the handle portion (Fig. 1, 40) define a first plane and the light-emitting portion (16) is substantially parallel with the first plane;
- A second position (Fig. 3) in which the light-emitting portion (Fig. 1, 16) is substantially transverse to the first plane.

37. In regards to claims 35 and 36, Rhoades further discloses:

- Wherein the light-emitting portion (Fig. 1, 16) is substantially transverse to the battery receiving portion (Fig. 3) (claim 35);
- Wherein the lightbox (Fig. 1, 10) is rotatably connected to the first member (32) (col. 1, lines 64-65) (claim 36).

Claim Rejections - 35 USC § 103

38. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

39. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Brandt (US 6,322,233) in view of Parsons et al. (US 6,916,104).

40. Brandt discloses an emergency flashlight (Fig. 3).

41. In regards to claims 6-9, Brandt discloses:

- A handle member (Fig. 3, 50) (claim 6);
- A light box (Fig. 3, 26) connected to the handle member (50) (claim 6);
- Wherein the lightbox (Fig. 3, 26) has a light source (28) (claim 6);
- Wherein the light source (Fig. 3, 28) is positionable relative to the handle member to adjust the vertical direction of the directional light beam (Fig. 1, 42, 44) and the horizontal direction of the directional light beam (Fig. 3, 56) (claim 6);
- Wherein the lightbox (Fig. 3, 26) is positionable relative to the handle member at two discrete locations (Fig. 3, 22, 32) (claim 7);
- Wherein a first of the discrete locations (Fig. 3, 32) is provided at a connection between the lightbox (26) and a first member (18) connected to the handle member (50) (claim 8);
- Wherein a second of the discrete locations (Fig. 3, 22) is positioned at a connection between the handle member (50) and the first member (18) (claim 9).

42. However, Brandt does not expressly disclose:

- A hand strap attached to a handle member (claim 6).

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43. Parsons et al. discloses a flashlight (Fig. 3) having a hand strap (30) attached to a handle member (50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the hand strap of Parsons et al. for the emergency flashlight of Brandt to secure the emergency flashlight on the hand of the user, for the purpose of preventing an accidental escaping of a flashlight out of the user's hand while swinging the flashlight to generate power for emergency light.

44. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osterhout et al. (US 5,019,951) in view of Penney et al. (US 4,345,304).

45. Osterhout et al. disclose a hand-held lighting device (Fig. 1).

46. In regards to claims 10-11, Osterhout et al. disclose:

- A handle member (Fig. 1, 14) connected to a lightbox (12) by a transverse member (24) (claim 10);
- Wherein the handle portion (Fig. 1, 14) is movable relative to the light box (12) (col. 2, lines 57-59) (claim 10);
- Wherein the lightbox (Fig. 1, 12) comprise a power receiving portion and a light source (16) (col. 3, lines 48-50) (claim 10);
- A switch (Fig. 1, 20) (claim 10);

47. However, Osterhout et al. do not expressly disclose:

- A battery as the power source (claim 10);
- A switch provided on the transverse member (claim 11);

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48. Penney et al. disclose a portable lamp (Fig. 1, 20) having a battery (42) as a power source placed within a lightbox (22, 24) and a switch (48) provided on the transverse member. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the battery and switch of Penny et al. for the hand-held lighting device of Osterhout et al. to provide easy access and operation of the switch with a single hand, for the purpose of improving the controllability of the hand-held lighting device with a single hand at various handle positions.

49. Claims 13-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osterhout et al. (US 5,019,951) in view of Rhoades (US 3,628,005).

50. Osterhout et al. disclose a hand-held lighting device (Fig. 1).

51. In regards to claims 14 and 16, Osterhout et al. disclose:

- A handle portion (Fig. 1, 14) (claim 13);
- A first member (Fig. 1, 24) connected to the handle portion (14) (claim 13);
- A lightbox (Fig. 1, 12) connected to the first member (24) (claim 13);
- Wherein lightbox (Fig. 1, 12) comprises a power receiving portion and a light source (16) (col. 3, lines 48-50) (claim 13);
- Wherein the handle portion (Fig. 1, 14), the first member (24) and the light box (12) form a substantially U-shaped configuration defining a hand receiving opening (claim 13);

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- Wherein the handle portion (Fig. 1, 14) is movable relative to the first member (24) (col. 2, lines 57-59) (claims 13, 14, 16);

52. However, Osterhout does not expressly disclose:

- A battery as a power source (claim 13);
- A movable connection between a lightbox and a first member (claim 14).

53. Rhoades discloses a lantern (Fig. 1) having a battery power source (col. 2, lines 53-56) and a movable connection between the lightbox (10) and a first member (32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the battery and the movable connection of Rhoades for the hand-held lighting device of Osterhout, for the purpose of enhancing the adjustability of the beam direction by employing multi-movable (adjustable) connections between the handle, the connection member and the light box.

54. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brandt (US 6,322,233) in view of Parsons et al. (US 6,916,104).

55. Brandt discloses an emergency flashlight (Fig. 3).

56. In regards to claims 21-23, Brandt discloses:

- A light-emitting portion (Fig. 1, 26) adjustably (22, 32) connected to a handle (50) (claim 21);
- Wherein the light-emitting portion (Fig. 3, 26) is directionally adjustable relative to the handle portion (50) to adjust the vertical and horizontal directions of the

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directional light beam (Fig. 1, 42, 44, 56) relative to the handle portion (50) (claim 21).

57. However, Brandt does not expressly disclose:

- A strap forming an opening and attached to a handle member (claim 21) at first and second locations (claims 21, 22).

58. Parsons et al. disclose a flashlight (Fig. 3) having a hand strap (30) attached to a handle member (50) at first and second locations. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the hand strap of Parsons et al. for the emergency flashlight of Brandt to secure the emergency flashlight on the hand of the user, for the purpose of preventing an accidental escaping of the flashlight out of the user's hand while swinging the flashlight to generate the power for emergency light.

59. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nygard (US 1,986,281) as applied to claim 28 above, and further in view of Booty (US 5,558,430).

60. Nygard discloses a hand lamp (Fig. 2).

61. In regards to claim 32, Nygard discloses the invention substantially as claimed except for a hand strap. Booty discloses a dual beam flashlight (Fig. 1, 10) having a hand strap (32). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the hand strap of Booty for the hand lamp of

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Nygard, for the purpose of improving the portability of the hand lamp, which prevents accidental dropping of the lamp device during fast movement.

62. Claims 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osterhout et al. (US 5,019,951) in view of Rhoades (US 3,628,005).

63. Osterhout et al. disclose a hand-held lighting device (Fig. 1).

64. In regards to claims 33-34, Osterhout discloses:

- A lightbox (Fig. 1, 14) interconnected to a handle portion (40) (claim 33);
- Wherein the lightbox (Fig. 1, 12) comprises a power receiving portion and a light-emitting portion (16) (col. 3, lines 48-50) (claim 33);
- A first position in which the power receiving portion and the handle portion (Fig. 1, 14) define a first plane and the light-emitting portion (16) is substantially parallel with the first plane (claim 33);
- A second position (Fig. 3) in which the light-emitting portion (Fig. 1, 16) is substantially transverse to the first plane (claim 33);
- A first member (Fig. 1, 24), wherein the lightbox (12) is connected to the first member (24) and the handle portion is pivotally connected to the first member (24) (col. 2, lines 57-59) (claim 34).

65. However, Osterhout does not expressly disclose:

- A battery as a power source (claim 33);
- A third position of the light-emitting portion (claim 34).

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66. Rhoades discloses a lantern (Fig. 1) having a battery power source (col. 2, lines 53-56) and a connection means (28) which provide various positions (including a third position) of a light-emitting portion (16) relative to a handle portion (40) (col. 3, lines 44-47). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the battery and the connection means of Rhoades for the hand-held lighting device of Osterhout, for the purpose of enhancing the portability of the hand-held lighting device by using a battery and improving performance of the lighting device by providing the lighting beam in any desired direction.

Conclusion

67. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yuen (US 5,859,582) shows a security light having a handle portion, a first member and a lightbox.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gunyoung T. Lee whose telephone number is (571) 272-8588. The examiner can normally be reached between 7:30 - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea can be reached at (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GTL
4/28/2006



JOHN ANTHONY WARD
PRIMARY EXAMINER